

July 23, 2018

Samantha Zhitnitsky
Account Coordinator
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL

RE: Yuengling Tailgate Sweepstakes

Dear Ms. Zhitnitsky:

ISSUE: This correspondence is in response to your e-mail of July 11, 2018, in which you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Yuengling Tailgate Sweepstakes” promotion is scheduled to begin on September 1, and end on September 30, 2018. Interested individuals may enter the sweepstakes by texting “TAILGATE” to 55755 and completing an entry form with their name, date of birth, state, telephone number, and e-mail address. Alternatively, interested individuals may enter online by visiting the sweepstakes website at www.TailgateWithYuengling.com, and following the instructions for entry.

Three winners will be randomly selected to receive a Tailgate Party Pack which includes a Yuengling tailgate table, a Yuengling fire pit, and a Yuengling folding chair. Each Tailgate Party Pack has an approximate retail value of \$198.00. No purchase is necessary to enter the sweepstakes, and alcoholic beverages are not included in any of the prizes. The sweepstakes is only open to adults who are at least twenty-one years of age at the time of entry.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one years of age or older.
- iii. Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- iv. Alcoholic beverages may not be part of the prize.

40 Pa. Code § 5.32(h).

This office has reviewed the proposed sweepstakes promotion and determined that it comports with applicable liquor laws and regulations, specifically section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h).

Please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and retail licensed premises POS material is no longer required. However, the requirement for prior approval of POS material intended for use in the PLCB's Fine Wine & Good Spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one brand of any one manufacturer at any one time may not exceed \$300.00 on a retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, it would be permissible to conduct this promotion in the Commonwealth in reference to the areas checked below:

- ☐ retail licensed premises.
- ☐ distributor licensed premises.
- ☒ both retail and distributor licensed premises.
- ☐ The PLCB's Fine Wine & Good Spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- ☒ other – Internet, text messaging.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 18-276